Fourth Review Conference
of the Parties to the Treaty
on the Non-Proliferation of Nuclear Weapons

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BASIC FACTS WITHIN THE FRAMEWORK OF THE UNITED NATIONS IN CONNECTION WITH THE IMPLEMENTATION OF ARTICLES I AND II OF THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

Background paper by the Secretariat

CONTENTS

	Paragraphs	Page
INTRODUCTION	1 - 3	2
I. THE FIRST AND SECOND REVIEW CONFERENCES	4 - 7	3
II. THE THIRD REVIEW CONFERENCE	8 - 10	4

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INTRODUCTION

1. The Preparatory Committee for the Fourth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, at its first session (1 to 5 May 1989), invited the Secretary-General of the United Nations to prepare for the Committee's second session a background paper summarizing the basic facts within the framework of the United Nations in connection with the implementation of articles I and II of the Treaty. The Committee requested that the paper should provide background information on the status of the implementation of those articles. Accordingly, the Secretariat prepared the paper, using the debates and deliberations of the past three Review Conferences as the main source of information. At the request of the Preparatory Committee, at its second session (11-15 September 1989) the paper was revised for the Committee's third session (23 April-2 May). At that session, the Committee requested that, in the light of the comments made during its discussion, the background paper be updated and revised as necessary where appropriate for submission to the Conference. The present paper is submitted in response to that request.

2. Articles I and II of the non-proliferation Treaty read as follows:

"Article I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

"Article II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices." 1/

3. The question of the nature and source of the threat of nuclear-weapon proliferation and the measures needed to avert that threat, including the role of the non-proliferation Treaty, was the subject of extensive discussions at the tenth special session of the General Assembly, in 1978, the first special session devoted to disarmament. In the Final Document of that session (resolution S-10/2), several paragraphs (paras. 20 and 65 to 67) deal with the question of non-proliferation. In paragraph 65, the Assembly expressed the following consensus:

"It is imperative, as an integral part of the effort to halt and reverse the arms race, to prevent the proliferation of nuclear weapons. The goal of nuclear non-proliferation is on the one hand to prevent the emergence of any additional nuclear-weapon States besides the existing five nuclear-weapon States, and on the other progressively to reduce and

eventually eliminate nuclear weapons altogether. This involves obligations and responsibilities on the part of both nuclear-weapon States and non-nuclear-weapon States, the former undertaking to stop the nuclear arms race and to achieve nuclear disarmament by urgent application of the measures outlined in the relevant paragraphs of this Final Document, and all States undertaking to prevent the spread of nuclear weapons."

I. THE FIRST AND SECOND REVIEW CONFERENCES

4. The States parties to the treaty on the Non-Proliferation of Nuclear Weapons, in the Final Declaration of the First Review Conference of the Parties to the Treaty (NPT/CONF/35/I, annex I), held at Geneva in 1975, reaffirmed their strong support for the Treaty, their continued dedication to its principles and objectives and their commitment to implement fully and more effectively its provisions. The Review Conference affirmed the belief that universal adherence to the Treaty would greatly strengthen international peace and enhance the security of all States. The section of the Final Declaration concerning the review of articles I and II reads as follows:

> "The review undertaken by the Conference confirms that the obligations undertaken under articles I and II of the Treaty have been faithfully observed by all Parties. The Conference is convinced that the continued strict observance of these articles remains central to the shared objective of averting the further proliferation of nuclear weapons."

5. At the Second Review Conference of the Parties to the Treaty (1980), in the general debate (see NPT/CONF.II/22/II), several parties made explicit comments on the implementation of articles I and II of the Treaty and noted that there had been no complaints or suggestions that States parties to the Treaty had failed to carry out obligations they had assumed. There were some statements, on the other hand, to the effect that, according to reports, some States not parties to the Treaty - notably, Israel and South Africa - were developing nuclear weapons. If such reports were accurate, it was further stated, those countries would be doing so with the assistance or complacent tolerance of certain States parties to the Treaty.

6. In the debate on the provisions of articles I and II, in Committee I of the Review Conference (ibid.), a number of delegations made further comments on the implementation of those articles. The participants in the discussion generally stressed the need to strengthen the implementation of the Treaty and the non-proliferation régime. In addition, numerous participants referred expressly to articles I and II. The United States for its part found that the statement relative to article I contained in the Final Declaration of the First Review Conference was still valid but, at the same time, agreed that article I should be dealt with separately from article II. It also agreed that it was incumbent on all States to abide by the letter and spirit of article I. It added that the United States had scrupulously abided by that article. To its knowledge, moreover, no nuclear-weapon State party to the Treaty had infringed the provisions of that article. The Soviet Union stated that there had been no indication of any violations of articles I and II and

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that that situation should be reflected in the Final Document of the Review Conference. On the other hand, several non-aligned parties did not agree with statements that there had been no infringements of article I. In particular, it was felt that there had been "oblique" infringements of article I through transfers to third parties.

7. The President of the Review Conference, in his concluding remarks, stated, inter alia, that the discussions had shown that all commitments to which parties had subscribed under the terms of the Treaty had been upheld and differences of view had rather concerned proposals to improve the implementation of those provisions. Regarding the implementation of articles I and II, the President stated that horizontal proliferation had been the subject of very little controversy, as everybody had recognized that the non-nuclear parties had observed the Treaty.

II. THE THIRD REVIEW CONFERENCE

8. At the Third Review Conference, in 1985, the parties to the Treaty once again recognized that the continued strict observance of articles I and II, which constituted the principal obligations of the Treaty, remained central to the shared objective of averting the further proliferation of nuclear weapons. In that connection, it was recognized that the Treaty had been an effective instrument in preventing the further spread of nuclear weapons, and that the nuclear-weapon and non-nuclear-weapon States had fulfilled their respective obligations under articles I and II. As the Conference stated in its Final Declaration (NPT/CONF.III/64/I), adopted by consensus,

> "The Conference acknowledged the declarations by nuclear-weapon States Party to the Treaty that they had fulfilled their obligations under article I. The Conference further acknowledged the declarations that non-nuclear-weapon States Party to the Treaty had fulfilled their obligations under article II. The Conference was of the view therefore that one of the primary objectives of the Treaty had been achieved in the period under review."

9. While there was full agreement on the fact that no nuclear-weapon State had emerged among the parties to the Treaty since it had been concluded, several parties expressed concern that a significant number of States had not yet become party to the Treaty. Those States, it was felt, had been able to strengthen their nuclear capabilities to an extent that posed a threat to nuclear non-proliferation. Ultimately, consensus language on these matters was incorporated in the Final Document of the Conference (see next paragraph).

10. With regard to the review of the operation of articles I and II, which was done in conjunction with the review of preambular paragraphs 1 to 3, the Final Declaration stated the following:

> "The Conference noted the concerns and convictions expressed in preambular paragraphs 1 to 3 and agreed that they remain valid. The States Party to the Treaty remain resolved in their belief in the need to avoid the devastation that a nuclear war would bring. The Conference remains convinced that any proliferation of nuclear weapons would seriously increase the danger of a nuclear war.

"The Conference agreed that the strict observance of the terms of articles I and II remains central to achieving the shared objectives of preventing under any circumstances the further proliferation of nuclear weapons and preserving the Treaty's vital contribution to peace and security, including to the peace and security of non-Parties.

"The Conference acknowledged the declarations by nuclear-weapons States Party to the Treaty that they had fulfilled their obligations under article I. The Conference further acknowledged the declarations that non-nuclear-weapon States Party to the Treaty had fulfilled their obligations under article II. The Conference was of the view therefore that one of the primary objectives of the Treaty had been achieved in the period under review.

"The Conference also expressed deep concern that the national nuclear programmes of some States non-Party to the Treaty may lead them to obtain a nuclear weapon capability. States Party to the Treaty stated that any further detonation of a nuclear explosive device by any non-nuclear-weapon State would constitute a most serious breach of the non-proliferation objective.

"The Conference noted the great and serious concerns expressed about the nuclear capability of South Africa and Israel. The Conference further noted the calls on all States for the total and complete prohibition of the transfer of all nuclear facilities, resources or devices to South Africa and Israel and to stop all exploitation of Namibian uranium, natural or enriched, until the attainment of Namibian independence."

Note

1/ See United Nations, Treaty Series, vol. 729, No. 10485.